

House Bill 1116

By: Representatives Buckner of the 130th, Thomas of the 100th, Jamieson of the 28th, and Hugley of the 133rd

A BILL TO BE ENTITLED
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for a county excise tax on the severance of solid minerals; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner and Department of Revenue; to provide for criminal penalties; to provide for other matters relative to the foregoing; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding at the end thereof a new chapter, to be designated Chapter 19, to read as follows:

"CHAPTER 19

48-19-1.

As used in this chapter, the term:

(1) 'For sale or for industry purposes' or 'for the purpose of selling or for industrial use' means the entry of any solid mineral into the stream of intrastate or interstate commerce or any commercial exploitation of such solid mineral.

(2) 'Governmental agency' means any federal, state, or local department, bureau, agency, or governing authority.

(3) 'Producer' means any person engaging in the business of severing one or more solid minerals from the soil or waters within this state.

(4) 'Production' means the total gross amount of a solid mineral severed from the soil or waters of this state from any type of production unit, including but not limited to mines, either on or below the surface; quarries; pits; or other sites of extraction.

(5) 'Sever,' 'severed,' or 'severance' means the withdrawing, cutting, mining, stripping, or otherwise physical taking or removing of solid minerals from the soil or waters within a county.

(6) 'Solid mineral' means all solid minerals, including, but not limited to, clay, gravel, phosphate rock, lime, shells exclusive of live shellfish, stone, sand, heavy minerals, and any rare earths or waters which have been discovered or may be discovered in the future, which are contained in the soil or waters within a county.

(7) 'Ton' means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the solid mineral is weighed under such rules and regulations as the commissioner may prescribe.

48-19-2.

(a) The governing authority of each county is authorized to levy upon each producer of solid minerals in such county an excise tax on the privilege of engaging in the severance of solid minerals from the soil or waters within that county for sale or for industrial purposes. This excise tax shall be known as the county solid minerals severance tax which shall be imposed upon the producer following the adoption of a resolution by the governing authority of the county calling for the imposition of such tax.

(b) The rate of the county solid minerals severance tax shall be 15¢ per ton on all solid minerals severed from the soil or waters within the county for sale or for industrial purposes.

(c)(1) The tax imposed under this Code section is levied upon the entire production of the producer in this county to the extent such solid minerals are severed for the purpose of selling such products or for industrial use, regardless of the place of sale or the delivery of such solid minerals outside such county.

(2) The producer shall become liable for such taxes at the time the solid minerals are severed from the soil or waters within the county, whether before processing or after processing, as the case may be.

(d) The tax levied by such county shall constitute a lien upon all solid minerals severed within the county and upon all property in the county from which it is severed, including but not limited to mineral rights of the producer, and such lien shall be entitled to preference over all judgments, encumbrances, or liens except those held by this state.

(e) The department shall administer and collect the severance tax levied by the governing authority of each county under this Code section.

(f) The proceeds of the county solid minerals severance tax collected by the commissioner shall be disbursed as soon as practicable after collection as follows:

(1) One percent of the amount collected shall be paid into the general fund of this state to defray the costs of administration of the tax; and

(2) The remainder shall be returned to the county from which the solid mineral was severed and shall be applied by the county governing authority as follows:

(A) Fifty percent for the maintenance and construction of roads by the county; and

(B) Fifty percent to the general fund of the county.

48-19-3.

(a) The county solid minerals severance tax shall be due and payable monthly on the first day of the month next succeeding the month in which the solid minerals are severed from the soil or waters.

(b) In order to ascertain the amount of tax payable, the producer shall transmit to the commissioner, on or before the fifteenth day of the month in which the tax accrues, a return upon forms provided by the commissioner. The return shall set forth the amount of solid minerals in tons severed by such producer during the next preceding calendar month, the amount of tax due, and such other information as the commissioner may require for the proper enforcement of the provisions of this chapter.

(c) A separate return shall be filed with the commissioner for each county from which any solid mineral is severed showing the month or period covered, the total number of tons of all solid minerals severed from each production unit operated, owned, or controlled by the taxpayer during the period covered, the county in which produced, the amount of the tax owing to such county, and such other information as the commissioner may require.

(d) A remittance in the amount of the tax due this state and that owing to the county or counties levying such tax shall accompany the returns when transmitted to the commissioner.

(e) The returns shall be signed by the producer himself or herself in the instance of any individual producer and by a member, officer, or manager of the producer in all other instances.

(f) The time provided for the filing of such returns with the commissioner may be extended by agreement between the producer and the commissioner.

(g) The producer making a timely return of the amount owing to any county levying such tax shall be allowed a credit in the amount of 1 percent against such liability.

1 48-19-4.

2 (a) In the event any producer shall fail to file the signed monthly returns required, or in the
3 event the commissioner has reason to believe that any return is incorrect, or in the event
4 any producer shall fail to pay all taxes due under this chapter, the commissioner shall be
5 authorized to ascertain the true amount of any solid mineral severed and to assess the tax
6 based thereon within three years from the date upon which the return and remittance were
7 due or were transmitted to him or her. A notice of the assessment shall be mailed to the
8 producer.

9 (b) The commissioner may require the producer to furnish him or her with such
10 information as he or she may deem necessary to compute correctly the amount of tax to be
11 levied and collected under the provisions of this chapter. The commissioner may require
12 the production, at such place as he or she may designate, of the books, records, files, or
13 other documents of the producer and examine the same. The commissioner shall also be
14 authorized to conduct hearings and compel attendance of witnesses. In any such event, the
15 commissioner shall make allowances for the reasonable business needs of the producer in
16 maintaining his or her business records.

17 (c) The commissioner may also request from any governmental agency information
18 necessary to the ascertainment of the correct amount of the producer's tax liability.

19 (d) All producers of solid minerals shall make and keep for a period of three years a
20 complete and accurate record showing the gross quantity of solid minerals severed from
21 the soil or waters within a county, the county in which severed, and any other information
22 the commissioner may reasonably require.

23 (e) Upon the ascertainment of the tax so found to be due, the commissioner shall add
24 thereto a penalty assessment equal to 15 percent of the amount of such tax, together with
25 all accrued costs and expense of making such ascertainment, and shall thereupon make
26 demand upon the producer for the payment thereof; provided, however, that such penalty
27 assessment may be waived by the commissioner for good cause shown.

28 48-19-5.

29 The commissioner shall be authorized to promulgate reasonable rules and regulations
30 necessary to the administration and collection of the taxes imposed by this chapter.

31 48-19-6.

32 Any person who violates any provision of this chapter shall be guilty of a misdemeanor."

33 **SECTION 2.**

1 This Act shall become effective upon its approval by the Governor or upon its becoming law
2 without such approval.

3 **SECTION 3.**

4 All laws and parts of laws in conflict with this Act are repealed.